

### **REMARKS**

In the restriction requirement of November 13, 2007, the Examiner stated that a restriction of the claims is required because certain groups of the claims were not linked under the single general inventive concept of PCT Rule 13.1. The designated groups, as determined by the Examiner, were said to include:

- Group I:       claims 1-21, drawn to a product, and
- Group II:      claims 22-25, drawn to a process.

With respect to each of these groups, the Examiner asserted that they do not relate to a single general inventive concept under PCT Rule 13.1 because they lack the same or corresponding special technical feature. Most notably, Group I was said to include a technical feature of “two interlockable parts.” This feature, the Examiner stated, was lacking in Group II. As a result, the Examiner further stated that a search under both groups would be overly burdensome such that a restriction is required.

In response to the Examiner’s restriction requirement, Applicants provisionally elect the subject matter of Group I, claims 1-21 with traverse and without prejudice to Applicants’ right to file one or more continuation or divisional applications for the disclosed subject matter. Applicants traverse the Examiner’s restriction requirement on the basis that the criteria for a proper restriction has not been met.

A restriction requirement is only appropriate where there is lack of unity of invention. Specifically, PCT Rule 13.1 defines unity of invention as relating “to one invention only or to a group of inventions so linked as to form a single general inventive

concept.” Under PCT Rule 13.2, unity is determined based upon whether there is “a technical relationship among those inventions involving one or more of the same or corresponding special technical features.” The contribution of the technical features to the technical relationship should be considered as a whole and based on its novelty over the prior art. Lack of unity should not be raised “on the basis of a narrow, literal or academic approach.” (See MPEP 1850, II. *Determination of “Unity of the Invention”*). Accordingly, if the technical relationship across corresponding features of claim groups designated by an Examiner, on the whole, appears novel over the prior art and involves an inventive step, then there is unity of the invention and a restriction requirement should not arise. *Id.*

In the present application, Applicants respectfully assert that there is unity of invention across the claims of Group I and Group II, as defined by the Examiner. Independent claim 1 and claim 22, the respective independent claims of Group I and Group II, both recite a “connection member” that “is moveable between a flattened and an erect state.” The relevant and corresponding technical feature of each of these groups is, therefore, the “connection member.” The novel technical relationship between the group is that they facilitate the moveability of a corrugated cardboard pallet between a flattened and erect state. This structure and relationship is clearly recited in all of the claims of Group I and Group II. Thus, there is unity of invention between the claims of Group I and Group II.

Applicants respectfully assert that the Examiner, in asserting lack of unity of invention, has applied a narrow approach to the specific technical features of the invention and ignored the unified technical relationship present throughout all of the claims of the application. Specifically, the Examiner, in his rejection, stated that Group II lacked the “two interlockable parts” recited in the claims of Group I. The Examiner’s approach, however, was a narrow and incorrect application of the technical features of the present invention to the unity of invention test. Specifically, it ignored the corresponding technical structure of the connection members of Group I and Group II and the technical relationship between these connection members as a whole. The relevant corresponding technical features of Group I and Group II relate to the connection member. This aspect of the invention is clearly recited in all of the claims of the application and discussed, at length, within the specification of the application. While the connection member of Group I may have a slight variation in the structure provided by the claims, as a whole the connection members of both Group I and Group II are correlated in that they both facilitate the inventive step of moving a corrugated cardboard pallet between a flattened and erect state. Thus, they are both within the same technical relationship, under the rubric of “a general inventive concept,” in that they achieve the same novel inventive step over the prior art. Accordingly, Applicant respectfully asserts that there is unity of the invention between the claims of Group I and Group II.

In addition to the foregoing, Applicants respectfully assert that a search of both Groups I and II would not impose a serious burden on the Examiner. Specifically, the

claims of Group I are directed to a product that is, essentially, covered by the methods of Group II. A search for the methods of Group II must, therefore, inherently include the search for the products of Group I. Accordingly, the Applicants respectfully assert that there would be no serious burden on the Examiner if a restriction is not required.

For at least the foregoing reasons, Applicant respectfully asserts that the restriction requirement of November 13, 2007 was incorrectly imposed and respectfully requests that the Examiner withdraw the restriction requirement and examine the claims of the present application, as filed.

### **CONCLUSION**

Applicants respectfully request that the Requirement be withdrawn. If, however, for any reason the Examiner does not believe that such action can be taken at this time, Applicants reserve the right to petition the Requirement.

To the extent there are any fees required in connection with the receipt, acceptance and/or consideration of this paper and/or any accompanying papers submitted herewith, please charge all such fees to Deposit Account 50-1943.

Applicants believe that this application is in a condition for allowance and an early notice to this effect is earnestly solicited. Should Examiner have any questions or comments with respect to this response, it is respectfully requested that the Examiner telephone Applicants' attorney at (215) 299- 2135 to discuss.

Respectfully submitted,

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